IN THE HIGH COURT OF UTTARANCHAL IN NAINITAL

Writ Petition No.1779 (S/B) of 2002

Sri Surendra Singh S/o Sri Manmohan Singh (Principal)
Govt. Polytechnic Dwarahat Distt. Almora

... **Petitioner**

Vs

1. State of Uttaranchal through Secretary Technical Education at Dehradun,
2. Additional Secretary/Director Technical Education, Uttaranchal at Dehradun.

... **Respondents**

Dated: July 18, 2006

Sri B.C. Pandey, Sr. Advocate, learned counsel for the petitioner
Ld. Standing counsel for the State

Hon'ble P.C. Verma, J.
Hon'ble B.S. Verma, J.

By means of this writ petition, the petitioner has prayed for writ of mandamus commanding the respondents to designate the petitioner as principal and further a writ of mandamus has been sought to grant promotion to the petitioner to the Principal.

Having heard learned counsel for the parties at length and after perusal of the record, it comes out that the petitioner's service was regularized on 15.10.1988 and therefore his date of substantive appointment on the post of Lecturer is 15.10.1988. The petitioner has been promoted to the post of Head of Department from the post of Lecturer on 20.5.1993. Now, the next post for promotion available to the petitioner is the post of Principal of Govt. Polytechnic which is a post under Category-III of the Appendix-I appended with the Rules

known as U.P. Technical Education Gazetted Officers Service (First Amendment) Rules, 1998.

The source of recruitment of Category-III posts is twenty five percent posts to be filled up by direct recruitment through the Commission and seventy five percent by promotion through the Commission from amongst substantively appointed Officers of Categories-X and XII who have put in at least fifteen years service in the pay scale of Rs. 8000-13500. The explanation appended thereto reads as under:-

> *"Note - Eligibility list for promotion to these posts will be prepared in accordance with the date of substantive appointment as Lecturers provided that persons who have been substantively appointed directly to posts in Categories VII and IX will be given notional weightage of eight years for the purposes of preparing eligibility list on seniority."*

It is not in dispute that the petitioner is not a direct recruit on the post of Head of Department, therefore the second part of the explanation is not attracted in case of the petitioner. The case of the petitioner is attracted under the first part of the explanation and the petitioner's service as Lecturer from the date of substantive appointment is to be counted for computing the 15 years period for the eligibility of the petitioner for promotion on the post of Principal.

Since the petitioner was substantively appointed on 15.10.1988, therefore after adding 15 years on 15.10.1988, the petitioner has become eligible on 14.10.2003 to be considered for the promotion on the post of Principal according to these Rules. Therefore, we direct the respondents to consider the case of the petitioner for his promotion on the post of Principal in accordance with the Rules within a period of one month from the date of production of certified copy of this order.

Another relief which has been sought by the petitioner is relating to the payment of salary on the post of Principal. On account of availability of vacancy and in the public interest i.e. the interest of the students, the petitioner was allowed to officiate on the post of Principal without regular promotion. Since the petitioner was allowed to officiate on the higher pay scale, therefore, the respondents are also directed to decide the matter in accordance with the provisions of Rule 22-B Part-II of the U.P. Fundamental Rules and release the arrears of salary in accordance with the said Rules within the period stipulated time i.e. within a period of one month if the petitioner is entitled to be paid under the said Rules.

With the aforesaid observation, the writ petition is disposed of finally.

(B.S. Verma,J.) **(P.C. Verma,J.)**

Rajeev Dang